

**NOT FOR PUBLICATION**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

TREMAINE M. HADDEN,

Plaintiff

v.

RICHARD HERSHEY, et al.,

Defendants

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CIV. NO. 22-1600 (RMB-EAP)

**MEMORANDUM OPINION**

**IT APPEARING THAT:**

1. On August 21, 2023, the Clerk of Court entered default against Defendants Allison Akee, Jeffrey Lorman, and Sergeant Fisher in this action filed by *Pro Se* Plaintiff Tremaine M. Hadden under 42 U.S.C. § 1983. (Dkt. No. 23.)
2. On October 4, 2023, Defendants Alison Akee and Jeffrey Lorman filed a motion to vacate Clerk's entry of default. (Dkt. No. 24.)
3. Defendant Alison Onofre (Akee) submitted a declaration, stating she was not served with the summons and complaint before the Clerk entered default; however, she is now represented by Deputy Attorney Natalie Dennis. (Dkt. No. 24-2.)

4. Defendant Jeffery Lorman submitted a declaration, stating he was not served with the summons and complaint before the Clerk entered default; however, he is now represented by Deputy Attorney Natalie Dennis. (Dkt. No. 24-3.)
5. Deputy Attorney General (“DAG”) Natalie Dennis submitted a declaration (Dkt. No. 24-1), stating Plaintiff’s complaint was amended on March 28, 2022. On January 30, 2023, the Clerk’s office received notification from the United States Marshals Office that Defendants Lorman and Onofre (Akke) were served on October 5, 2022, but the Marshals Office could not locate the signed paperwork acknowledging that service was effectuated. On August 22, 2023, the Clerk’s office entered default. On March 2, 2023, former DAG Stephen Bondi reached out to Defendants Onofre (Akke) and Lorman. On March 2, 2023, Alison Onofre (Akke) and Jeffrey Lorman notified DAG Bondi that they were never personally served. During the week of September 11, 2023, the Attorney General’s Office became aware of the Clerk’s entry of default. Due to lack of proper service, the Attorney General’s Office did not take any further action.
6. Further, Defendants Onofre (Akke) and Lorman submit that Plaintiff will not be unfairly prejudiced by setting aside default against Defendants as Defendants Onofre (Akke) and Lorman filed an Answer to Plaintiff’s Amended Complaint, asserting meritorious defenses. Defendants did not knowingly delay their response to Plaintiff’s Complaint. Upon becoming aware of the Clerk’s entry of default, DAG Dennis promptly ensured

representation would be appropriate and took appropriate action to investigate and defend this case. Upon learning of the Clerk's entry of default, conflict checks were completed on September 14, 2023, revealing no conflict, and DAG Dennis interviewed Defendants Onofre (Akke) and Lorman and obtained preliminary discovery.

7. "Any of the reasons sufficient to justify the vacation of a default judgment under Rule 60(b) normally will justify relief from a default entry and in various situations a default entry may be set aside for reasons that would not be enough to open a default judgment." *Feliciano v. Reliant Tooling Co.*, 691 F.2d 653, 656 (3d Cir. 1982) (quoting 10 C. Wright & A. Miller, *Federal Practice and Procedure* s 2696 at 334 (1973)).
8. In determining a motion to set aside a default under Rule 55(c) or a default judgment under Rule 60(b)(1), courts must consider: "(1) whether the plaintiff will be prejudiced; (2) whether the defendant has a meritorious defense; and (3) whether the default was the result of the defendant's culpable conduct." *Gold Kist, Inc. v. Laurinburg Oil Co.*, 756 F.2d 14, 19 (3d Cir. 1985) (citations omitted).
9. The declarations of DAG Natalie Dennis, Alison Onofre (Akke), and Jeffrey Lorman establish the Clerk's entry of default was not the result of Defendants' culpable conduct, Defendants have asserted meritorious defenses; and Plaintiff will not be prejudiced because Defendants are now represented and have

submitted an answer to the amended complaint. Therefore, the motion to vacate entry of default will be granted.

An appropriate Order follows.

s/Renée Marie Bumb  
**RENÉE MARIE BUMB**  
**Chief United States District Judge**

Date: November 9, 2023